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Letter dated 10 June 2016 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey herewith the second report of the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism.

I should be grateful if the present letter and the report could be brought to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Please recycle

Letter dated 10 June 2016 from the Leadership Panel of the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism addressed to the Secretary-General

The Leadership Panel of the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism has the honour to transmit the Mechanism's second report pursuant to Security Council resolution 2235 (2015).

The report provides a description of the activities undertaken by the Mechanism from 12 February to 10 June 2016. It also provides an indication of the activities that the Mechanism is planning to undertake during the coming weeks.

(*Signed*) Virginia **Gamba**
Head
Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism

(*Signed*) Adrian **Neritani**
Leadership Panel

(*Signed*) Eberhard **Schanze**
Leadership Panel

Second report of the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism

I. Introduction

1. The present report is the second of the Organization for the Prohibition of Chemical Weapons (OPCW)-United Nations Joint Investigative Mechanism pursuant to paragraph 11 of Security Council resolution 2235 (2015). It covers the period from 12 February 2016, when the Mechanism's first report was submitted to the Security Council (S/2016/142), to 10 June 2016. The period marks the conclusion of phase I and the beginning of phase II of the Mechanism's implementation of its mandate. The report provides a description of the activities undertaken by the Mechanism during the period in question.

II. Background

2. The Mechanism's first report provided an overview of the work of the Mechanism since its establishment on 24 September 2015, through its becoming operational on 13 November (beginning of phase I) until 10 February 2016. It included a description of the sources of information available to the Mechanism and the methodology behind the investigation. It also discussed the specific considerations in view of developing operational guidelines and procedures that the Mechanism needed owing to its unprecedented mandate "to identify to the greatest extent feasible individuals, entities, groups, or governments who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons, including chlorine or any other toxic chemical, in the Syrian Arab Republic where the OPCW fact-finding mission determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons".

3. Subsequently, the Mechanism informed the Security Council, through the Secretary-General, of the following nine cases that would be further investigated during phase II (see S/2016/196):

(a) Kafr Zita, Hama governorate, 10, 11 and 18 April 2014;

(b) Al-Tamanah, Idlib governorate, 29 and 30 April and 25 and 26 May 2014;

(c) Talmenes, Idlib governorate, 21 April 2014;

(d) Qmenas, Idlib governorate, 16 March 2015;

(e) Sarmin, Idlib governorate, 16 March 2015;

(f) Binnish, Idlib governorate, 23 and 24 March 2015;

(g) Marea, Aleppo governorate, 21 August 2015.

4. The selection of the cases was based on a methodology devised by the Mechanism, taking into account severity (deaths, casualties, etc.), the delivery method and munition, and the quality and quantity of data and information about the incidents. The analysis of available information and identification of cases to be pursued marked the end of phase I. Phase II, which began on 1 March 2016, consists

of case-specific information collection, analysis and assessment, the identification of information gaps and the beginning of corroboration activities. Furthermore, the phase includes technical visits to capitals, the region and the Syrian Arab Republic, interactions with technical bodies such as forensic laboratories and institutes, and witness interviews. The phase will continue until sufficient information has been gathered, analysed, assessed and corroborated to allow the Mechanism to present its findings to the Security Council.

III. Activities of the Leadership Panel

5. During the reporting period, the Leadership Panel of the Mechanism focused its efforts on the key aspects set out below.

6. First, the Leadership Panel continued to engage with the members of the Security Council and other States Members of the United Nations, to maintain and strengthen their confidence in and support for the work of the Mechanism. The continuing dialogue with Member States as the principal stakeholders in this effort was of utmost importance to develop and maintain trust and to facilitate subsequent information-gathering for the investigators. The Panel travelled to capitals, upon invitations, for discussions with government officials and to seek cooperation with the Mechanism. During the reporting period, the Panel visited seven countries, three of them in the Middle East, and is planning to visit three more countries in June. The Panel also held more than 100 bilateral meetings with Member States in New York and in The Hague during the past four months.

7. Second, the Leadership Panel established and maintained regular contacts with United Nations entities and other international organizations, non-governmental organizations and other non-State actors, including the private sector, to solicit their cooperation and request relevant information that might benefit the investigation. Through its engagement with relevant stakeholders, the Panel paved the way for their direct communication with the Mechanism's investigators.

8. Third, the Leadership Panel ensured that the Secretary-General was kept abreast of the Mechanism's progress in its work. The Panel periodically met the Director General of OPCW in The Hague. In addition, the Panel and the High Representative for Disarmament Affairs jointly informed the Director General after each monthly briefing to the Security Council on resolutions 2118 (2013) and 2235 (2015) of relevant issues that had emerged during the discussion.

9. Fourth, the Leadership Panel ensured that the Mechanism had appropriate and sufficient resources for the investigation. The Panel has facilitated expedited policies for the hiring of specialists to strengthen its team in The Hague and in Damascus with the expertise necessary to conduct and complete a professional investigation. The Trust Fund associated with the Mechanism has been utilized for this purpose.

10. Lastly, the Leadership Panel provided overall guidance and oversight to the investigation as well as the continued adoption of procedures, where necessary. The Panel has been leading the way in developing the Mechanism's operational guidelines and procedures for identifying perpetrators in the use of chemicals as weapons. These include guidelines and procedures on how to start an investigation, conduct witness interviews, collect, analyse and handle information (including chain

of custody) and corroborate and authenticate information. The Mechanism will submit the operational guidelines and procedures to the Security Council before the conclusion of its mandate.

IV. Investigation activities

Investigation plans

11. The Mechanism prepared an investigation plan for each case to help to guide the overall investigation and, more specifically, the planning process. The plan contains a description for each case and a summary of the findings of the OPCW fact-finding mission. It defines the scope of the investigation and provides an evaluation of the relative strengths and weaknesses of each case. It also outlines the case hypotheses, areas of work, activities and deadlines. It further identifies information gaps and plans for how to close them, and sets out a list of significant steps taken with regard to the lines of investigation.

12. The investigation plan is constantly updated and refined in accordance with the information gathered from available sources. Changes to the plan, including shifts in lines of investigation, are made on the basis of new information received and regular assessments conducted in respect of that information.

13. The investigation plan guides activities, including information analysis, gap analysis and in-depth comparative analysis. As information is gathered and analysed, an assessment is made as to whether more information is needed for the purposes of corroboration. This procedure is aimed at facilitating a methodical approach in the consideration and analysis of the information obtained to achieve a required sufficiency for identification purposes. The method is most useful in ensuring that the investigation remains focused, as well as independent, impartial and objective. The discipline exercised in these efforts will facilitate the ability of the Leadership Panel to reach its conclusions and recommendations on the nine cases in its subsequent reporting to the Security Council.

Information collection

14. The Mechanism continues to request and receive non-fact-finding mission information from Member States and other entities. Such information feeds into the development and refinement of the lines of investigation for each case.

15. The Mechanism considers information collection, analysis, assessment and corroboration to be simultaneous and non-sequential processes. As information collection continues, and on the basis of the ongoing evaluation of the information, new questions and queries arise. These new questions are often more complex, detailed and direct than those that have preceded them and require more detailed and considerate responses from aforementioned stakeholders.

16. The Mechanism has continued to request and receive information from the Syrian Arab Republic. Investigators undertook two visits, each of a week's duration, to the country in March and May 2016, in addition to the visit of the Leadership Panel conducted in December 2015 following the signature of the agreement concerning the status of the Mechanism, to ensure the timely, safe and secure conduct of the mandate of the Mechanism in the Syrian Arab Republic. Mandatory, one-week predeployment safety and security training was provided to the

Mechanism's investigators and the Panel ahead of the visits. Questions have always been prepared and shared with the Member State in advance of the country visits and meetings. During the two technical visits, the investigators met government officials, including technical counterparts and scientists. The Government also provided information material to the Mechanism, as well as access to witnesses to some of the incidents under investigation.

17. To date, there has been an increase in the number of other Member States that have provided information to the Mechanism. Several have submitted more than one set of responses to the Mechanism's multiple information requests, which, as indicated above, have over time become increasingly detailed and case-specific.

18. Furthermore, a great deal of the information has been collected by the Mechanism by establishing a network of contacts with relevant information on the cases under investigation. Efforts have been under way to broaden this network, where possible and if useful, within the Mechanism's time frame. As such, non-governmental organizations, the private sector, research organizations, institutes and other civil society organizations have been contacted when the investigators and/or the Leadership Panel thought that they could provide pertinent information to the investigation and thus help to fill gaps or corroborate existing information.

Analysis, assessment and corroboration of information

19. In phase II, the main emphasis has been on case-specific information collection, analysis and assessment, the identification of information gaps and the beginning of corroboration activities. Investigators have been revising and analysing all available fact-finding mission and non-fact-finding mission material collected to date, which includes more than 6,000 pages of documents, transcripts of more than 200 interviews, more than 850 pieces of photographic material, more than 350 videos obtained from open sources and provided by witnesses themselves, and more than 3,500 files, including videos, photographs and audio recordings. Given that most of the non-fact-finding mission information needed for gap identification is available only in Arabic, large numbers of documents have been translated. In addition, the investigators have recorded witness interviews, an activity that is continuing.

20. The Mechanism has been conducting assessment exercises to structure the next steps and test the robustness of the various lines of investigation pursued for each case. To this end, accumulated information and data are subjected to various forms of comparative analysis, to identify patterns and trends. These analyses assist in the validation of case hypotheses and guide the identification layers with respect to potential perpetrators, thus moving the investigation forward.

21. The analytical and information collection stages include a methodical corroboration of certain aspects of the cases under investigation. The corroboration process involved the engagement of two internationally recognized forensic institutes, which are analysing material pertaining to the cases. This includes forensic analysis of media files provided to the Mechanism by various sources to determine, among other things, whether videos and photographs have been modified or altered, and verify the dates and locations, including by comparing them with other imaging from the locations. To date, the investigators have delivered about 40 files to the two institutes, which translates to more than 600 hours of forensic work. This work is continuing as more files are received.

22. In addition, the Mechanism has consulted with several laboratories on chemical substances, munitions and other related issues, as needed. It will continue to work with specialized laboratories to gain a better understanding of the information received and to assess its theories. To date, the Mechanism's investigators have undertaken six technical visits to several forensic institutes and laboratories.

V. Other activities

23. First, the Mechanism established a light footprint presence in Damascus in April. The liaison office there is staffed by a political affairs officer, who acts as the main focal point with the Government, providing up-to-date information and recommendations to the Leadership Panel regarding substantive political matters.

24. Second, to facilitate the investigative work, and to protect the confidentiality of the information received from Member States and other stakeholders, a robust information management system has been put in place. It contains a record management system and a separate network, including a dedicated server in the Mechanism's office in The Hague. Confidential and non-classified information collected or generated by the Mechanism is placed into the content and record management system. In the case of paper records, originals are scanned to be uploaded to the system and stored in the physical file; physical evidence is described in the system and stored in sealed envelopes or containers. While the system has been implemented in compliance with the United Nations policies on information security and has passed the controls to be certified for storage of strictly confidential materials, most of the information received from Member States is available only as the original copy and stored in New York. The Mechanism's investigators can review the material upon request and follow a chain of custody regime to ensure that access to the material is recorded.

25. A separate network not connected to the Internet has also been placed in the Mechanism's office in The Hague. It contains forensic copies of the fact-finding mission material provided by OPCW, witness statements with identifiable names or information and highly sensitive documents.

26. Third, an agreement between the United Nations and the Netherlands concerning the Investigations Office of the Mechanism in The Hague was signed on 31 May and entered into force immediately. It covers, among other things, the status of the Office and its personnel, in addition to cooperation with the host State.

27. Lastly, to date, the Trust Fund set up for the Mechanism has received contributions from 13 donors in a total amount of $8 million and pledges for an additional $1 million. The Leadership Panel is grateful for the generous contributions of Member States, which allow the Mechanism to secure access to the resources necessary to conduct a professional investigation.

VI. Concluding remarks

28. Investigations into the nine cases under consideration by the Mechanism have all progressed. Every reasonable attempt is being made to consider and examine various plausible hypotheses presented in relation to each case. Consequently, the

Mechanism continues to consider all available information received to date while it collects further material. The investigators, therefore, continue to actively look for, analyse and assess information from Member States, non-governmental organizations and other available sources. Furthermore, the Mechanism is considering arrangements to enable it to conduct simulations of its case theories.

29. The Mechanism will provide a written report to the Security Council in August 2016. The report will contain its findings on the basis of the information collected, analysed and corroborated by the end of July 2016. Nevertheless, the Leadership Panel reaffirms that the identification of those responsible for the use of chemicals as weapons in the Syrian Arab Republic continues to depend on sufficiency of information, described as evidence of a credible and reliable nature to determine that a party was involved in the use of chemicals as weapons, pursuant to paragraph 20 of the Mechanism's first report (S/2016/142).

30. For this reason, the Leadership Panel reiterates that receiving prompt information from Member States and relevant stakeholders, including from the region, is crucial to the implementation of the mandate, as is the need for the Government of the Syrian Arab Republic to provide prompt responses to the requests of the Mechanism for information and/or access.

31. The Leadership Panel continues to develop and refine operational guidelines for this investigation: in the absence of a framework to guide its efforts in fulfilling its unprecedented mandate, the Mechanism has been developing guidelines and procedures, which may be useful for future bodies tasked with similar mandates. The Panel plans to submit to the Security Council the operational guidelines and procedures for investigating those involved in the use of chemicals as weapons.

32. Lastly, and in the light of the continued reports of the use of chemicals as weapons in the Syrian Arab Republic, the Leadership Panel reiterates its strong conviction that the use of chemicals as weapons, for any reason and under any circumstances, is totally abhorrent. The Panel reaffirms its belief that it is absolutely crucial to identify and hold the perpetrators of the use of chemicals as weapons accountable for this effort to serve as a deterrent of such acts in the future.

33. In conclusion, the Leadership Panel wishes to thank the Secretariat, especially the Office for Disarmament Affairs, OPCW, Member States and other stakeholders who have continued to support the Mechanism's efforts to fulfil its mandate.